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PART II—Section 2

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RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the **7th** August, 1970:—

BILL No. XII OF 1970

A Bill to provide for immunity to Members of Parliament and State Legislatures from detention without trial.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Members of Parliament and State Legislatures (Immunity from Detention) Act, 1970. **Short title.**

2. Notwithstanding anything contained in any law for the time being in force, no Member of Parliament or of a House of the Legislature of a State shall be detained in custody without trial. **Immunity of Members of Parliament and State Legislatures from detention without trial.**

STATEMENT OF OBJECTS AND REASONS

In our country, Members of Parliament and of the State Legislatures do not enjoy immunity from arrest and imprisonment, not even from detention without trial. In order to uphold the dignity of Parliament and the Legislatures of the States as also in the public interest, it is necessary to provide for such members immunity from detention in custody without trial.

Hence this Bill.

BHUPESH GUPTA.

BILL No. XX OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1970. Short title.

2. In article 74 of the Constitution, after clause (2), the following clause shall be inserted, namely:— Amendment of article 74

"(3) The total number of members of a Council of Ministers (including Ministers of State and Deputy Ministers) and Parliamentary Secretaries, if any, shall not be more than the aggregate of one-tenth of the total membership of the House of the People and one-fortieth of the total membership of the Council of States.".

3. In article 163 of the Constitution, after clause (3), the following clause shall be inserted, namely:— Amendment of article 163.

"(4) The total number of members of a Council of Ministers (including Ministers of State and Deputy Ministers) and Parliamentary Secretaries, if any, shall not be more than—

(a) one-tenth of the total membership of the Legislative Assembly, where the Legislature of the State consists of only one House;

(b) the aggregate of one-tenth of the total membership of the Legislative Assembly and one-fortieth of the total membership of the Legislative Council, where the Legislature of the State consists of two Houses.".

STATEMENT OF OBJECTS AND REASONS

The Committee on Defections unanimously recommended that articles 74 and 163 of the Constitution should be amended so as to provide for a maximum number for membership of the Council of Ministers at the Centre and in the States. The main reason for this recommendation is that there has been a tendency for one party to get into its fold members belonging to other parties by offering inducement of Ministership. This tendency has been shown also in seeking to settle internal problems within a party which is in control of the Government. There is the recent example of the extraordinary expansion of the Council of Ministers in Punjab. Out of 104 members of the State Legislature, 27 have been made Ministers apparently with a view to overcoming the difficulties of the Akali-Jana Sangh Government and also those within the Akali party itself. There is no reason why there should be delay in giving effect to at least the unanimous recommendation of the Committee on Defections on this point, though the ceiling should really be lower than recommended by the Committee. Both the Government and the Opposition stand committed to this particular recommendation and there should be no difficulty in getting the amendment accepted by Parliament.

Hence the Bill.

BHUPESH GUPTA,

BILL No. XXIV OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1970. Short title.

2. For article 163 of the Constitution, the following article shall be substituted, namely:— Substitution of new article for article 163.

"163. (*1*) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions and the Governor shall act in accordance with the advice of the Council of Ministers on all matters except in case of sending a report to the President under article 356 and in case of assent to Bills passed by the Legislature of the State under article 200. Council of Ministers to aid and advise Governor.

(2) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.".

STATEMENT OF OBJECTS AND REASONS

The Constitution of India has introduced the Parliamentary system of Government both in Centre and in the States. In a parliamentary form of Government, the Head of the State is required to function in accordance with the advice of his Council of Ministers. Accordingly, the Governor of a State should act according to the advice of his Council of Ministers. But recently a doubt has arisen about the discretionary powers of the Governor. The word 'discretion' in article 163 and the interpretation of certain other provisions of the Constitution have created confusion about the nature of the real powers of the Governor with the result that some Governors in certain cases have assumed powers which were not intended by the word and spirit of the Constitution. So in order to develop healthy parliamentary practice in a State and to run the Government according to the will of the people, no discretionary power should be left to the 'appointed' Governor except in most urgent matters. The amendments suggested in this Bill limit the discretionary powers of the Governor in two cases only and make it imperative for the Governor to act in all other matters according to the advice of his Council of Ministers.

PRANAB KUMAR MUKHERJEE

BILL NO. XIII OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1970. Short title

2. For article 120 of the Constitution, the following article shall be substituted, namely:— Substitu 120.

"120. Notwithstanding anything in Part XVII, but subject to the provisions of article 348, business in Parliament shall be transacted in Hindi or in English or in any of the other languages specified in the Eighth Schedule to the Constitution."

STATEMENT OF OBJECTS AND REASONS

Article 120 of the Constitution, as it stands at present, provides that Hindi or English can be used for transaction of business in Parliament, provided that a Member who cannot adequately express himself in Hindi or in English may be permitted by the Presiding Officer to address the House in his mother tongue. As the regional languages of India have been made official languages in the respective States, and as the Parliament comprises of representatives from all the States in India, it is proper that provision should be made for the use of all the languages specified in the Eighth Schedule to the Constitution for transaction of business in Parliament. This will also ensure equality of status for all the languages mentioned in the Eighth Schedule, and give a popular and democratic orientation to the work of Parliament.

Hence this Bill.

BHUPESH GUPTA.

BILL NO. XXI OF 1970

A Bill to prohibit bigamous marriages in India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Prohibition of Bigamous Marriages Act, 1970.

(*2*) It extends to the whole of India except the State of Jammu and Kashmir, and applies also to citizens of India domiciled in the territories to which this Act extends who are outside the said territories.

(*3*) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Punishment of bigamy.

2. Notwithstanding anything contained in any other law or in any personal law, any marriage between two persons solemnized after the commencement of this Act is void if at the date of such marriage either party had a husband or wife living; and the provisions of sections 494 and 495 of the Indian Penal Code shall apply accordingly. 45 of 1860.

STATEMENT OF OBJECTS AND REASONS

Polygamy is a social evil and should be ruthlessly suppressed. The Hindu Marriage Act, 1955, has made bigamous marriages void and bigamy a punishable offence. But polygamy is practised by the people of several other communities in India. This discrimination should go and polygamy should be prohibited for all. The Bill seeks to achieve this object.

DWIJENDRALAL SEN GUPTA.

BILL No. XXIII OF 1970

A Bill further to amend the Industrial Disputes Act, 1947.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Industrial Disputes (Amendment) Act, 1970.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

14 of 1947

Amendment of section 2.

2. In section 2 of the Industrial Disputes Act, 1947,—

(*i*) after clause (c), the following clause shall be inserted, namely:—

"(cc) 'closure' means total and bona fide stoppage of an entire industry, including all its branches and subsidiaries, by the employer;";

(*ii*) in clause (oo), after the words "by way of disciplinary action," the words "and includes all termination of service on account of closure," shall be inserted.

STATEMENT OF OBJECTS AND REASONS

The Supreme Court has held recently in the Indian Hume Pipe case that stoppage of work in a factory or a branch thereof shall also be considered as "closure". On account of this decision, the question whether such closure is bonafide or malafide cannot now be gone into by an Industrial Tribunal constituted under the Industrial Disputes Act, 1947. But there had been an earlier decision where the Supreme Court had held that "closure" means the stoppage of entire business and any interference with the decision of the management would amount to interference with its fundamental right to start or close down a business. The Supreme Court had also held in another case that malafide "closure" is no "closure" in the eye of law. These decisions of the Supreme Court have thus given rise to a serious anomaly. With a view to remove this anomaly and also keeping in view the interests of labour the term "closure" requires to be precisely defined.

Hence this Bill.

DWIJENDRALAL SEN GUPTA.

VII

BILL No. XXV OF 1970

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1970. Short title.

2. In clause (3) of article 105 of the Constitution, the words "and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution" shall be omitted. Amendment of article 105

3. In clause (3) of article 194 of the Constitution, the words "and, until so defined, shall be those of the House of Commons of the Parliament of the United Kingdom, and of its members and committees, at the commencement of this Constitution" shall be omitted. Amendment of article 1940.

STATEMENT OF OBJECTS AND REASONS

In articles 105(3) and 194(3) of the Constitution of India the scope and extent of the powers, privileges and immunities of the members of Parliament and of the State Legislatures have been stated in terms of those of a foreign Legislature, that is, House of Commons of the United Kingdom. Reference of a foreign Legislature in this context within the text of the Constitution of a sovereign country is a peculiar feature. It is evident that these were the transitary provisions and were meant for a short period only. But even after the passage of twenty years since the commencement of the Constitution the existence of these words in the text of the Constitution appear to be an anachronism. So the proposed amendment suggests deletion of reference to the foreign legislature from the text of the Constitution.

PRANAB KUMAR MUKHERJEE

BILL NO. XXVI OF 1970

A Bill further to amend the Minimum Wages Act, 1948.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Minimum Wages (Amendment) Act, 1970.

Amendment of section 3.

11 of 1948.

2. In section 3 of the Minimum Wages Act, 1948 (hereinafter referred to as the principal Act),—

(*a*) in sub-section (*1*),—

(*i*) proviso to clause (*a*) shall be omitted;

(*ii*) for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) review at an interval of two years the minimum rates of wages so fixed and revise the minimum rates, if necessary:";

(*iii*) in proviso to clause (*b*), for the words "five years", wherever they occur, the words "two years" shall be substituted;

(*b*) in sub-section (*1A*), for the words "as soon as may be" the words "within a period of six months" shall be substituted;

(c) in sub-section (2), for the word "may" the word "shall" shall be substituted.

Amendment of section 4.

3. In section 4 of the principal Act,—

(a) in sub-section (1), for the word "may" the word "shall" shall be substituted;

(b) in clause (i) of sub-section (1), after the words "at such intervals" the words "not exceeding one year" shall be inserted;

(c) in clause (ii) of sub-section (1), the words "or without" shall be omitted;

(d) in sub-section (2), after the words "at such intervals" the words "not exceeding one year" shall be inserted.

Amendment of section 26.

4. In section 26 of the principal Act,—

(a) sub-section (2) shall be omitted;

(b) sub-section (2A) shall be re-numbered as sub-section (2).

STATEMENT OF OBJECTS AND REASONS

Section 3 of the Minimum Wages Act, 1948 provides that the minimum rates of wages shall be reviewed by an appropriate Government at such intervals as it may think fit and such intervals not exceeding five years. However the working of the Act has revealed that such review of rates is not being done by many State Governments even after the above prescribed period. This derelection of duty on the part of such State Governments has put the poor workers to a great economic hardship because of constant price rise these days. Besides, the workers feel that "five years" is too long a period for review of their minimum wages when spiralling prices has become the order of the day. Again, section 4 of the said Act does not ensure to the workers timely increase in their special allowance or cost of living allowance for want of any specific time limit therein and, consequently, in these days of constant price rise, the workers have come to such a plight that they can hardly live from hand to mouth.

The present Bill, therefore, seeks to make suitable amendments to the said Act in order to enable the workers to come out of the ruts of poverty in which constant price rise these days has pushed them.

CHITTA BASU.

BILL NO. XXII OF 1970

A Bill further to amend the Trade Unions Act, 1926.

BE it enacted by Parliament in the Twenty-first Year of the Republic of India as follows:—

Short title and commencement.

1. This Act may be called the Minimum Wages (Amendment) Act, 1970.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2 of Act 16 of 1926.

2. In section 2 of the Trade Unions Act, 1926 (hereinafter referred to as the principal Act),—

(*i*) before clause (*a*), the following clause shall be inserted, namely:—

'(*a1*) "employer" means,—

(*i*) in relation to an industry carried on by or under the authority of any Department of the Central Government or of the State Government, the authority prescribed in this behalf, or where no authority is prescribed, the head of the Department,

(*ii*) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority,

(*iii*) in relation to any other industry, its owner, manager or general manager, managing director, or where there is no authority of these categories, the person who has ultimate control over the affairs of the industry, and where the said affairs are entrusted to a managing agent, such managing agent,

(*iv*) in relation to an association or organisation of employers, its executive or any other body, by whatever name it is called to which the management of the affairs of the association or organisation is entrusted;';

(*ii*) after clause (*a*), the following clauses shall be inserted, namely:—

'(*aa*) "industry" means—

(*i*) any business, trade, undertaking, manufacture or calling of employers; and

(*ii*) any calling, service, employment, handicraft, industrial occupation or avocation of workmen, and includes any university, college, school and other educational institution or institution for carrying on research work, auditor's or solicitor's firm, hospital, and any other establishment as the appropriate Government may, by notification in the Official Gazette, declare as industry;

(*aaa*) "Local area" means any area comprising the whole or part of a State or Union territory as the appropriate Government may, after making such enquiry as may be prescribed, specify by notification in the Official Gazette, in relation to any class of industry;

(*aaaa*) "lock-out" means a lock-out as defined in clause (*l*) of section 2 of the Industrial Disputes Act, 1947;'; Act 14 of 1947.

(*iii*) after clause (c), the following clause shall be inserted, namely:—

'(cc) "recognised Trade Union" means a Trade Union recognised under this Act;';

(*iv*) after clause (*f*), the following clause shall be inserted, namely:—

'(*ff*) "strike" means a strike as defined in clause (*q*) of section 2 of the Industrial Disputes Act, 1947;'; and

(*v*) in clause (*g*), the word "and" at the end shall be omitted, and to the said clause as so amended, the following proviso shall be added, namely:—

'Provided that for the purpose of Chapter IIIA of this Act the word "workman" shall have the same meaning as in clause (*s*) of section 2 of the Industrial Disputes Act, 1947; and'.

Amendment of Section 10.

3. In section 10 of the principal Act, in clause (*b*), after the words "this Act", the words and figure "or any rule referred to in section 6," shall be inserted.

Substitution of new Section for Section 11.

4. For section 11 of the principal Act, the following section shall be substituted, namely:—

Appeal.

"11. (*1*) Any person aggrieved by any refusal of the Registrar to register a Trade Union under section 7 or by the withdrawal or cancellation of a certificate of registration under section 10 and any Trade Union or any association or organisation of employers or any employer of an industrial establishment aggrieved by any decision of the Registrar under Chapter IIIA of this Act in connection with the grant, cancellation or withdrawal of any certificate directing recognition of a Trade Union may, within such period as may be prescribed, appeal—

(*a*) where the head office of the Trade Union or the association or organisation of employers or any employer of an individual establishment or the industrial establishment is situated within the limits of a Presidency town, to the High Court, or

(*b*) where such head office is situated in any other area, to such Court, not being inferior to the Court of an Additional District Judge, as the appropriate Government may appoint in this behalf for that area.

(*2*) The appellate Court may dismiss the appeal, or pass an order—

(*a*) directing the Registrar to register the Trade Union and to issue a certificate for registration under the provisions of section 9, or

(*b*) setting aside the order for withdrawal or cancellation of the certificate of registration, or

(*c*) directing cancellation or withdrawal of the certificate for recognition of a Trade Union if such recognition is not maintainable under the provisions of this Act, or

(*d*) directing the Registrar to grant certificate for recognition to a Trade Union,

and the Registrar shall comply with the order of the appellate Court.

(*3*) For the purpose of an appeal under sub-section (*1*) an appellate Court shall, so far as may be, follow the same procedure and have the same powers as it follows and has when trying a suit under the Code of Civil Procedure, 1908, and may direct by whom the whole or any part of the costs of the appeal shall be paid, and such costs shall be recovered as if they had been awarded in a suit under the said Code.". Act 5 of 1908.

Insertion of new Chapters IIIA and IIIB.

5. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—

"CHAPTER IIIA

RECOGNITION OF TRADE UNIONS

Application for recognition.

28A. (*1*) Subject to the provisions of sub-section (*2*), any registered Trade Union may apply in the prescribed manner together with such fee, not exceeding ten rupees, as may be prescribed, to the Registrar for recognition as the representative Trade Union for an industrial establishment or a class of industry, in a local area, as the case may be:

Provided that no such application shall be entertained in respect of an industrial establishment or a class of industry, in a local area, as the case may be, if there is already a Trade Union recognised under this Act in respect of such industrial establishment or class of industry, as the case may be, during the period of two years immediately following the date of recognition of that Trade Union by the employer concerned:

Provided further that such application may be filed with the Registrar within the period of two years referred to in the first proviso if the recognition of the Trade Union concerned is withdrawn or cancelled under this Act during that period:

Provided also that the existence of a recognised Trade Union in respect of a class of industry in a local area shall not be a bar in submitting an application for recognition in a single industrial establishment belonging to that class of industry in a local area.

(*2*) No Trade Union shall be eligible to apply for recognition under sub-section (1), unless—

(*i*) it has been functioning as a registered Trade Union in an industrial establishment or the class of industry in the local area, as the case may be, for a period of at least six months immediately preceding the date of filing of such application;

(*ii*) the membership thereof is open to all workmen employed in the industrial establishment or the class of industry in the local area, as the case may be; and

(*iii*) the rules of the Trade Union provide that—

(*a*) the appointment of the office-bearers shall be made every year within the date specified in this behalf; and

(*b*) the meeting of its executive shall be held at least once every three months.

Certificate for recognition of Trade Unions.

28B. (*1*) On receipt of an application under section 28A, the Registrar shall hold such enquiry as may be prescribed for determining whether the applicant Trade Union fulfils the conditions laid down in sub-section (*2*) of section 28A.

(2) If, on completion of the enquiry under sub-section (1), the Registrar is satisfied that the applicant Trade Union—

(i) does not fulfil all or any of the conditions laid down in sub-section (2) of section 28A, or is not entitled to apply in view of the first proviso to sub-section (1) of section 28A, he shall reject the application and intimate the reasons for such rejection to the Trade Union;

(ii) fulfils all the conditions laid down in sub-section (2) of section 28A, he shall proceed to take action as hereinafter provided.

(3) If there is only one applicant Trade Union in respect of an industrial establishment or a class of industry in a local area, as the case may be, fulfilling the conditions laid down in sub-section (2) of section 28A, the Registrar shall, within a period of fifteen days, enter the name of that Trade Union in a prescribed register to be maintained by him for this purpose and, as early as practicable, grant a certificate in the prescribed manner to the applicant Trade Union directing recognition of that Trade Union by the employer concerned.

(4) If there are more than one applicant Trade Unions in respect of an industrial establishment or a class of industry in a local area, as the case may be, fulfilling the conditions laid down in sub-section (2) of section 28A, the Registrar shall arrange to hold an election by secret ballot in the prescribed manner, in order to ascertain which of the applicant Trade Unions has the following of the largest number of eligible workmen employed in the industrial establishment or class of industry in a local area, as the case may be, and after recording the name of the Trade Union which secures the largest number of votes, in the prescribed register to be maintained by him for the purpose, grant as early as practicable, a certificate in the prescribed manner to that Trade Union directing recognition of that Trade Union by the employer concerned.

Eligibility for voting.

28C. All workmen, who are above the age of eighteen years, and are in service for a period of 120 days in a period of twelve months immediately before the date of announcement of an election to be held for the purpose of section 28B, in relation to such industrial establishment or class of industry, as the case may be, shall be eligible for voting.

Recognition of Trade Union.

28D. (1) On receipt of the Registrar's certificate directing the recognition of a Trade Union under section 28B, the employer or employers, as the case may be, shall, within a period of thirty days, from the date of receipt of such certificate, grant in the prescribed manner recognition to the Trade Union as the representative union in relation to the industrial establishment or class of industry in a local area, as the case may be, to which the certificate relates.

(2) A Trade Union recognised under sub-section (1) shall also be recognised as the representative union by every federation, association or organisation of employers pertaining to the same indus-

trial establishment or class of industry in the local area, as the case may be.

(3) Any recognition granted under this section shall be operative for a period of two years from the date on which such recognition is granted by the employer unless the recognition is cancelled or withdrawn at an earlier date under section 28G:

Provided that where the recognition of a Trade Union is not cancelled or withdrawn under section 28G, such recognition shall continue to be operative after the expiry of two years, for a period of six months or until another Trade Union is recognised in its place, whichever is earlier.

Rights of recognised Trade Union.

28E. (1) A Trade Union recognised under this Act shall, in such manner and subject to such conditions as may be prescribed, have the right—

(a) to raise issue and enter into collective agreement with the employer or employers on general questions concerning employment or non-employment or terms of employment and conditions of labour of any workman in respect of the industrial establishment or class of industry in a local area, as the case may be, for which it is recognised:

Provided that where, in any local area, in addition to a Trade Union recognised for a class of industry, there is also a recognised Trade Union in an individual industrial establishment belonging to that class of industry, the Trade Union recognised for a class of industry shall have the right to raise only general issues for that class of industry as a whole;

(b) to collect membership fees, subscriptions or any other dues payable by members of the Trade Union within the premises of the industrial establishment or class of industry in a local area, as the case may be, in such manner as may be prescribed;

(c) to put up or to cause to be put up a notice board on the premises of the industrial establishment or class of industry in a local area, as the case may be, in respect of which it is recognised and affix or cause to be affixed thereon notices relating to meetings, statements of accounts of its income and expenditure and other announcements which are not abusive, indecent or contrary to discipline or otherwise against the provisions of any law for the time being in force;

(d) for the purpose of prevention or settlement of any dispute regarding issues specified in clause (a)—

(i) to hold discussions with the workmen who are members of the Trade Union at a suitable place or places within the premises of the industrial establishment as mutually agreed upon;

(ii) to meet and discuss with the employer or any person appointed by him for the purpose:

(*iii*) to inspect, by prior arrangement, any place in the industrial establishment or class of industry in a local area, as the case may be, where any member of the Trade Union is employed; and

(*e*) to nominate its representatives on non-statutory bipartite committees like Production Committee, Welfare Committee, House Allotment Committee that might be set up by any employer in an industrial establishment.

(*2*) The rights of a recognised Trade Union specified in sub-section (*1*) shall be without prejudice to the rights that any unrecognised Trade Union enjoys under the Industrial Disputes Act, 1947. Act 14 of 1947.

Returns by recognised Trade Unions.

28F. Every Trade Union recognised under section 28D shall submit to the Registrar at the prescribed time and in the prescribed manner such returns, in addition to those referred to in section 28, as may be prescribed.

Cancellation and withdrawal of recognition of a Trade Union.

28G. (*1*) The recognition of any Trade Union shall stand cancelled as soon as the Registration of such Trade Union is cancelled by the Registrar under this Act unless there is any appeal against such order of cancellation.

(*2*) The Registrar may, in such manner as may be prescribed, direct the employer recognising a Trade Union to withdraw such recognition, if he is satisfied, after giving the parties concerned due opportunity of placing their case, and after holding such enquiry as may be prescribed, that the recognised Trade Union—

(*a*) has ceased to fulfil all or any of the conditions specified in section 28A; or

(*b*) obtained recognition on misrepresentation of facts; or

(*c*) adopted any of the unfair practices specified in section 28H.

(*3*) The recognition of a Trade Union may also be cancelled or withdrawn on the direction of the appellate Court on an appeal under section 11.

CHAPTER IIIB

UNFAIR PRACTICES BY TRADE UNIONS AND EMPLOYERS

Unfair practices by recognised Trade Unions.

28H. The following shall be deemed to be unfair practices on the part of a recognised Trade Union, namely:—

(*a*) publication by a Trade Union of any statement of facts which is false and which the Trade Union either believes to be false, or does not believe to be true, in relation to any other Trade Union contesting the election in connection with the selection of a representative Trade Union, with the calculated object to prejudice the prospects of the other Trade Union's election;

(*b*) submission by a Trade Union of any return required by or under this Act containing false statements.

Unfair practices by employers.

28I. The following shall be deemed to be unfair practices on the part of an employer, namely:—

(*a*) to interfere with, restrain or coerce his workmen, in the exercise of their rights to organise, form, join or assist a Trade Union and to engage in concerted activities for the purpose of mutual aid and protection;

(*b*) to interfere with the formation, or administration of any Trade Union or to contribute financial support to it;

(c) to discharge, or otherwise discriminate against any officer of a Trade Union because of his being such officer;

(*d*) to discharge or otherwise discriminate against any workman because he has made allegation or given evidence in an enquiry or proceeding relating to any matter referred to in sub-section (*1*) of section 28E.".

Amendment of Section 31.

6. In section 31 of the principal Act,—

(*a*) in sub-section (*1*), for the word "statement", the words "statement, return" shall be substituted;

(*b*) in sub-section (*2*), after the words "that section", the words, figures and letter "or in or from any return referred to in section 28F" shall be inserted.

Insertion of new sections 32A and 32B.

7. After section 32 of the principal Act, the following sections shall be inserted, namely:—

Penalty for failure or refusal to grant recognition.

"32A. If any employer fails or refuses to grant recognition to a Trade Union as required under section 28D, he shall, on conviction, be punishable with fine which may extend to one thousand rupees or with imprisonment which may extend to six months or with both.

Penalty for unfair practices.

32B. (*1*) Any employer who commits any unfair practice specified in section 28I shall be punishable, on conviction, with a fine which may extend to one thousand rupees or with imprisonment which may extend to six months.

(*2*) Where the offence committed under this section or under section 32A involves a company, or other body corporate, or an association of persons (whether incorporated or not) every director, manager, secretary, agent or other officer or persons concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.".

STATEMENT OF OBJECTS AND REASONS

There is no provision for recognition of trade unions in the Trade Unions Act, 1926, or in any other Central Act. As such, the employers often recognise only those trade unions which suit their purpose, irrespective of the representative character of the said trade unions. This Bill seeks to provide for the conditions of recognition as well as to determine the scope and ambit of all such recognised trade unions. An identical Bill was passed by the West Bengal Legislative Assembly having jurisdiction over the State of West Bengal and this Bill, when passed, would have uniform law for recognition of trade unions throughout the country.

Hence this Bill.

DWIJENDRALAL SEN GUPTA.

B. N. BANERJEE,

Secretary.

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